

Report of the Special Committee on Constitutional Affairs & Human Rights 2010

There has not been much to report for 2010. Continuing concerns of this Special Committee have been the proper implementation of the Basic Law of the HKSAR, equal opportunities and data privacy legislation, the mechanism for screening torture claims, and human rights conditions in Hong Kong and Mainland China.

The “Unexpected Breakthrough in Hong Kong’s Constitutional Reform” that Professor Albert Chen recounted in (2010) 40 HKLJ 259 necessitated the preparation of a briefing by this Special Committee. The briefing was quickly turned into an article for the members of the International Bar Association and can be accessed here:

<http://www.ibanet.org/Document/Default.aspx?DocumentUId=5D10490F-19E5-4A68-9A30-3E62E77002D5>

The Chairman of the Bar and members of this Special Committee met with the Chairperson of the Equal Opportunities Commission and his colleagues in July 2010 to exchange views on a mooted proposal for establishing an Equal Opportunities Tribunal to hear and determine equal opportunities claims in the stead of the District Court.

The Vice-chairman of the Bar and the chairman of this Special Committee met with a delegation from the European Commission in March 2010 and a delegation from the National Democratic Institute in November 2010 as part of each institution’s regular assessment of the situation of Hong Kong.

The Bar Association has also responded, with the assistance of this Special Committee, to a number of public consultations including the code of practice to be made under s 12A of the United Nations (Anti-Terrorism Measures) Ordinance, the revised code of practice on employment under the Disability Discrimination Ordinance, outline of the third periodic report of the HKSAR of the PRC in the light of the ICCPR, outline of the third periodic report of the HKSAR of the PRC in the light of the CEDAW, and the public consultation on review of the Personal Data (Privacy) Ordinance.

The Bar Association and the Law Society have maintained its monitoring of the operation of the torture claim screening mechanism. About 600 cases have been processed thus far. And the fairness of the screening mechanism may be subject to judicial scrutiny in the near future.

Members of this Special Committee assisted the Bar Association in the preparation of the press releases on the removal of exhibits relating to the June 4th Incident outside Times Square and on the right of appeal from a first instance verdict in a criminal case in Mainland China.

Members of this Special Committee also attended meetings of the Human Rights Forum hosted by the Constitutional and Mainland Affairs Bureau of the Government of the HKSAR.

The membership of this Special Committee is larger than last year. The intention was to give the opportunity for young post-80s blood to gain some experience in this Special Committee's work so that they may in due course play a more substantial role in assisting the Bar Association in discharging its various public functions and responsibilities.

The chairman of this Special Committee expresses thanks to present and past members, as well as members of the Bar Secretariat, for their support. This is an appropriate moment to give thanks. As he is subject to the good Christian rule 6(2) of the Rules and Regulations of the Hong Kong Bar Association and will not be eligible to hold office on the Bar Council in 2012, a "new leadership and his/her team" will have to be found.

The timing seems good too. Article 23 legislation will not, if the Chief Executive of the HKSAR is to be believed, be proposed until some time in 2013. Questions like foreign state immunity and "Crown" immunity will hopefully be taken care of by the lawyers involved and with their assistance, the courts of the HKSAR. Thus the "new leadership and his/her team" of this Special Committee, it is expected, will have some time to get into gear.

Membership:

P. Y. Lo (Chairman)

Philip Dykes, SC

Raymond Leung

Lin Feng

Stanley Ma

Newman Lam

Lau Wan Ching

Ann Lui

Randy Shek

Earl Deng

Janet Ho

Jeffrey Tam

Tim Parker

P. Y. Lo

Chairman

Special Committee on Constitutional Affairs and Human Rights

6 December 2010.